

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

GNOTS Reserve, Inc.
WXS4872
Destrehan, Louisiana

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File No. EB-00-OR-062
NAL/Acct . No. X3262009

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 23, 2000

By the Enforcement Bureau, New Orleans Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that GNOTS Reserve, Inc. ("GNOTS"), licensee of marine fleet license WXS4872, has apparently violated Section 80.373(f) of the Commission's Rules ("Rules") by operating radio transmitting equipment on a frequency not authorized by this section.¹ We conclude that GNOTS is apparently liable for forfeiture in the amount of four thousand dollars (\$4,000).

II. BACKGROUND

2. GNOTS operates several towboats in the Mississippi River under marine fleet license WXS4872, including the vessels TOMCAT and KOOLCAT. A marine fleet license authorizes vessels covered by the license to transmit on certain VHF marine channels as specified in Section 80.373(f) of the Rules.

3. On May 12, 1999, an agent from the Commission's New Orleans Field Office ("Field Office"), observed transmissions on a channel not permitted by Section 80.373(f) of the Rules (156.075 MHz). Those transmissions were determined to be coming from the vessel TOMCAT.

4. On May 10, 2000, an agent from the Field Office again observed transmissions on a channel not permitted by Section 80.373(f) of the Rules (157.175 MHz). Those transmissions were determined to be coming from the vessel KOOLCAT.

5. On May 18, 2000, GNOTS was sent a Notice of Violation ("NOV") for operating on a frequency not authorized by the Rules. On June 13, 2000, GNOTS submitted a reply to the NOV.

¹ 47 C.F.R. § 80.373(f).

III. DISCUSSION

6. Section 80.373(f) of the Rules lists all frequencies authorized for use between ship and private coast stations in the VHF marine band (156-162 MHz). The vessels TOMCAT and KOOLCAT were not using these frequencies when the Field Office agent observed them on May 12, 1999 and May 10, 2000, respectively. Therefore, those transmissions were not authorized for use under the marine fleet station license granted to GNOTS by the Commission. In its June 13, 2000 reply to the NOV, GNOTS states that all of its vessel operators have been informed of the violation and sternly warned not to operate on unauthorized frequencies. However, while this action is commendable, GNOTS was previously warned about operation on unauthorized frequencies by letter dated May 13, 1999, following the incident involving the vessel TOMCAT. In addition, this warning letter included a listing of properly authorized frequencies for use by ship and private coast stations.

7. Based on the evidence before us, we find that on May 10, 2000, GNOTS willfully² violated Section 80.373(f) of the Rules by operating radio transmitting equipment on a frequency that was not authorized.

8. Pursuant to Section 1.80 of the Rules, Guidelines for Assessing Forfeitures, the base forfeiture amount for operation on an unauthorized frequency is \$4,000.³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Applying Section 1.80 of the Rules and statutory factors to the instant case, a \$4,000 forfeiture is warranted.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ GNOTS Reserve, Inc., is hereby **NOTIFIED** of their **APPARENT LIABILITY FOR A FORFEITURE** in the amount of four thousand dollars (\$4,000) for violating Section 80.373(f) of the Rules, 47 C.F.R. § 80.373(f).

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80.

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, GNOTS Reserve, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X3262009

12. The response if any must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD, NAL/Acct. No. X3262009, and must include the NAL/Acct. No. X3262009.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁷

15. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail, Return Receipt Requested, to GNOTS Reserve, Inc., P. O. Box 1147, Destrehan, Louisiana 70047.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director
New Orleans Field Office

⁷ See 47 C.F.R. § 1.1914.